

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALPHA CAPITAL ANSTALT,

Plaintiff,

-against-

HIGH PERFORMANCE BEVERAGE COMPANY,

Defendant.

Index No. 639/2015(CM)

NOTICE OF MOTION

PLEASE TAKE NOTICE, that Memorandum of Law in Support of Motion for Summary Judgment, Plaintiffs' Statement of Undisputed Material Facts Pursuant to Local Civil Rule 56.1, and the Affirmation of Konrad Ackermann and the exhibits attached thereto, Affirmation of Michael Holley and the exhibits to the Complaint referenced therein, and all the pleading and other documents submitted in this action, Plaintiffs respectfully request that the Court enter an Order granting summary judgment pursuant to Fed. R. Civ. P. 56 that:

1. Judgment against the Defendant, High Performance Beverage Company, in favor of Plaintiff Alpha Capital Anstalt, on the first cause of action in the amount \$62,234.24 plus accrued interest through the date of the judgment;

2. Judgment against the Defendant, High Performance Beverage Company, in favor of Plaintiff Alpha Capital Anstalt, on the second cause of action in the amount \$160,000.00 plus accrued interest through the date of the judgment;


3. Judgment against the Defendant, High Performance Beverage Company, in favor of Plaintiff Alpha Capital Anstalt, on the third cause of action in the amount \$682,000.00 through October 27, 2015 plus an additional \$2,000 per day through the date of the judgment;

4. Judgment against the Defendant, High Performance Beverage Company, in favor of Plaintiff Alpha Capital Anstalt, for Alpha's attorney's fees in prosecuting this matter; and

5. For such further relief as the Court deems just and proper.

Dated: October 27, 2015
Valley Stream, New York

Respectfully submitted,

By: 
Eliezer Drew (ED0625)
Attorney for Defendants
551 Fifth Avenue, Suite 1601
New York, New York 10176
(212) 697-9500

TO: John Gugliotta, Esq.
Gugliotta & Ponzini, P.C.
140 Huguenot Street, Second Floor
New Rochelle, New York 10801